IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY FIRST DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B.SESHASAYANA REDDY

WRIT PETITION NO : 17025 of 2004

Between:

1 P. Kishen Rao, S/o. Narasimha Rao,
R/o. Kudikilla Village, Kollapur Mandal, Mahabubnagar District.
2 K.V.N. Gupta, S/o. Satyanarayana Gupta,
R/o. Kudikilla Village, Kollapur Mandal, Mahabubnagar District.

..... PETITIONERS

AND

1 The Land Acquisition Officer & Revenue Divisional Officer, Nagarkurnool, Mahabubnagar District.
2 The District Collector, Mahabubnagar.
3 The Chief Commissioner of Land Administration, A.P., Hyderabad.
4 Government of Andhra Pradesh, rep by its Secretary, Revenue (Land Acquisition)
Department, Secretariat, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more in the nature of Mandamus declaring the action of the respondents in insisting the petitioners to execute Bond in Form-IV accepting the payment of compensation amount awarded by the Land Acquisition Officer in respect of the lands of the petitioners admeasuring Ac.3.10 Cents in Survey No. 151/2 and Ac. 0.16 Cents in Survey No. 75/2 and Ac.2.00 1/2 Cents in Survey No. 61 in Kudikandla village of Kollapur Mandal, Nagarkurnool Division in Mahaboobnagar Distraict, pursuant to Notification No.

G1/490/2004, dated 5-4-2004 issued by the District Collector, Mahabubnagar and undertaking not to claim higher compensation in any court of law or any other Forum without properly fixing compensation as per the market value of the lands and also fruit-bearing trees and well with a view to deprive the right of Claim of the petitioners for reference to Civil court under Section 18 of the Land Acquisition Act is as illegal, arbitrary, discriminatory, unjust and violative of Articles 14, 19, 21 and 300-A of the Constitution and against the public policy and hold that the petitioners are entitled to draw compensation awarded by the Land Acquisition Officer under protest duly referring the dispute of Claim of compensation in respect of the lands of the petitioners acquired to Civil Court under Section 18 of the Land Acquisition Act and pass

Counsel for the Petitioner: MR.D.LINGA RAO

Counsel for the Respondents: GP FOR LAND ACQUISITION

The Court made the following :

HONOURABLE SRI JUSTICE B.SESHASAYANA REDDY

WRIT PETITION No.17025 of 2004

ORDER:

This Writ Petition has been filed by the petitioners with a prayer to issue a writ, order or direction more in the nature of Mandamus declaring the action of the respondents in insisting the petitioners to execute Bond in Form-IV accepting the payment of compensation amount awarded by the Land Acquisition Officer in respect of the lands of the petitioners admeasuring Ac.3.10 cents in Survey No.151/2 and Ac.0.16 cents in Survey No.75/2 and Ac.2.01/2 cents in Survey No.61 in Kudikandla village of Kollapur Mandal, Nagarkurnool Division in Mahabubnagar District, pursuant to the Notification No.G1/490/2004, dated 05-04-2004, issued by the District Collector, Mahabubnagar, as illegal and arbitrary.

2. The case of the petitioners as set out in the affidavit filed in support of the

Writ Petition is;

The petitioners are absolute owners and possessors of land admeasuring Ac.3.10 cents in Survey No.151/2 and Ac.0.16 cents in Survey No.75/2 in Kudikilla village. It is further case of the petitioners that there are 60 mango trees, 130 Sapota trees and two Jama trees in the land in Survey No.151/2 apart from a well and there is also a well in SurveyNo.75/2. Their land along with some other lands have been acquired under Notification and compensation has been fixed at Rs.40,000/- per acre for dry land and Rs.70,000/- per acre for I.D.Land. It is the grievance of the petitioners that the compensation has not been paid to them since they refused to sign on the consent letter.

3. The learned counsel for the petitioners submits that since the lands of the petitioners have been acquired under the award and the respondents are bound to pay the value fixed in the award without insisting the petitioners to give consent for the value fixed by the authorities.

4. Whereas it is submitted by the learned Government Pleader for Land Acquisition, appeared on behalf of the respondents, that except the petitioners, the other land owners have consented for the value fixed under negotiation and compensation could not be paid because of the pendency of the Writ Petition. He relied on pages 36 and 37 of the award.

5. I deem it appropriate to refer the relevant portion of the award and it is thus:

> "The Pattadar Sri K.V.Narayana Gupta Attended to award enquiry and his deposition has also been recorded. As against Ac.2-16 gts, total extent of Sy.No.61 only an extent of Ac.1-34 gts land coming under acquisition and it is being cultivated with ID crops with the water Irrigation well existing in the same Sy. No. Apart from the above (55) Mango trees are also existing in the land under acquisition. During the award enquiry, the pattadar has agreed for the payment of land compensation @ Rs.70,000/- per acre as settled under package deal under consent and also to pay the compensation for the standing Mango trees as settled by the Government. The Assistant Director, Horticulture, Mahaboobnagar, vide Letter No.C/210/2004 dt.7-7-2004, has fixed the value of (55) Mango trees as 63,762=00. Thus the total compensation for Ac.1-34 gts land inclusinve of (55) Mango trees are worked out to Rs.1,93,262=00.
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> In the mean time, the above Pattadar along with Sri P.Kishan Rao, S/o.Narasimha Rao, filed a writ petition jointly before the Hon'ble High Court of A.P. bearing No.17025 of 2004, aggrieved with the fixation of rate

of compensation for land and standing mango trees on package deal as per the consent of the pattadar and the writ petition is pending trial before the Hon'ble High Court of A.P.

In view of the above, the compensation payable to Sri K.V.Narasimhaiah Gupta is kept in abeyance pending decision of the Hon'ble High Court of A.P. and will be decided later based on the decision of the Hon'ble High Court of A.P."

6. It is explicit from the award, the lands of the petitioners have been acquired and compensation has been fixed. Such is the case, there is no justification for the respondents in insisting the petitioners to give consent letter for disbursement of the compensation.

7. Accordingly, the Writ Petition is disposed of, directing 1st respondent-Land Acquisition Officer and Revenue Divisional Officer, Nagarkurnool, to disburse the compensation amount, payable to the petitioner, within a period of four weeks, from the date of a receipt of a copy of this order. No costs.

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July 21, 2005

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To

1 The Land Acquisition Officer & Revenue Divisional Officer, Nagarkurnool, Mahabubnagar District.
2 The District Collector, Mahabubnagar.
3 The Chief Commissioner of Land Administration, A.P., Hyderabad.
4 The Secretary, Revenue (Land Acquisition) Government of Andhra Pradesh, Department, Secretariat, Hyderabad.

5. Two C.Ds to the GP for Land Acquisition, High Court of AP Buildings, High Court of AP, Hyderabad (O.U.T.).

6. Two C.D.Copies.